UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:05CV326-3-MU

EDWIN WAYNE JOYCE,)	
Plaintiff,)	
v.)	<u>ORDER</u>
LACY H. THORNBURG, et. al.,)	
Defendants.)	

Plaintiff, a state inmate seeks leave to file this 42 U.S.C. §1983 action in forma pauperis under 28 U.S.C. § 1915. In his Complaint, Plaintiff alleges that Judge Lacy Thornburg, then North Carolina's Attorney General and ten other named defendants, many of whom are related to Judge Thornburg, conspired against him during his trial for child molestation in 1987. Plaintiff's thirty-three page Complaint is rambling, incomprehensible and irrelevant.

Pursuant to 28 U.S.C. § 1915(g), a prisoner may not bring a civil action under this statute, if on three or more occasions, he has brought an action or an appeal in the federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury. 28 U.S.C. § 1915(g). Court records indicate that Plaintiff had filed at least three previous cases in all of the federal district courts of North Carolina as well as in the Fourth Circuit Court of Appeals which were dismissed as frivolous. Moreover, his allegations against Judge Thornburg and the other ten named defendants, even if appropriately brought under 42 U.S.C, § 1983, do not show that he is in imminent danger of

¹ See Eastern District 5:02-CT-892-H, 5:03-CT-91-H; Middle District 2:95cv00132; Fourth Circuit No. 04-7550.

serious physical injury.

Accordingly, this matter is hereby DISMISSED under 28 U.S.C. §1915(g).

Signed: November 9, 2005

Graham C. Mullen Chief United States District Judge